

§ 10.107

17 CFR Ch. I (4–1–05 Edition)

pursuant to paragraph (a) of this section or an application for a stay pursuant to paragraph (b) of this section shall be filed. The Commission shall set the time for filing any response at the time it asks for a response. The Commission shall not grant any such petition or application without providing other parties to the proceeding with an opportunity to respond.

[41 FR 2511, Jan. 16, 1976, as amended at 63 FR 55795, Oct. 19, 1998; 63 FR 68829, Dec. 14, 1998; 64 FR 30903, June 9, 1999]

§ 10.107 Leave to adduce additional evidence.

Any time prior to issuance of the final decision the Commission may, upon its own motion or upon application in writing by any party, after notice to the parties and an opportunity for them to be heard, reopen the hearing for the reception of further evidence. The application shall show to the satisfaction of the Commission that the additional evidence is material, and that there were reasonable grounds for failure to adduce such evidence at the hearing. The Commission may hear the additional evidence or may refer the proceeding to the Administrative Law Judge for the taking of the additional evidence.

§ 10.108 Settlements.

(a) *When offers may be made.* Parties may at any time during the course of the proceeding propose offers of settlement. All offers of settlement shall be in writing.

(b) *Content of offer of settlement.* Each offer of settlement made by a respondent shall:

(1) Acknowledge service of the Complaint;

(2) Admit the jurisdiction of the Commission with respect to the matters set forth in the Complaint;

(3) Include a waiver of:

(i) A hearing,

(ii) All post-hearing procedures,

(iii) Judicial review, and

(iv) Any objection to the staff's participation in the Commission's consideration of the offer;

(4) Stipulate the record basis on which an order may be entered, which may consist solely of the complaint

and the findings contained in the offer of settlement; and

(5) Consent to the entry of an order reflecting the terms of settlement agreed upon, including, where appropriate:

(i) Findings by the Commission that the respondent has violated specified provisions of the Act, and

(ii) The imposition of sanctions.

(c) *Submission of offer of settlement.* Offers of settlement made by a respondent shall be submitted in writing to the Division of Enforcement, which shall present them to the Commission with the Division's recommendation. The respondent will be informed if the recommendation will be unfavorable, in which event the offer shall not be presented to the Commission unless the respondent so requests. Any offer of settlement not presented to the Commission shall be null and void with respect to any acknowledgement, admission, waiver, stipulation or consent contained in the offer and shall not be used in any manner in the proceeding by any party thereto.

(d) *Acceptance of offer by the Commission.* The Commission will accept an offer of settlement only by issuing its opinion and order based on the offer. Upon issuance of the opinion and order, the proceeding shall be terminated as to the respondent involved and so noted on the docket by the Proceedings Clerk.

(e) *Rejection of offer of settlement; effect of rejection.* When the Commission rejects an offer of settlement, the party making the offer shall be notified of the Commission's action and the offer of settlement shall be deemed withdrawn. A rejected offer of settlement and any documents relating thereto shall not constitute a part of the record in the proceeding; and the offer will be null and void with respect to any acknowledgment, admission, waiver, stipulation or consent contained in the offer and shall not be used in any manner in the proceeding by any party thereto.

[41 FR 2511, Jan. 16, 1976, as amended at 60 FR 54802, Oct. 26, 1995]